

# The Gazette of India

**EXTRAORDINARY**

**PART II—Section 2**

**PUBLISHED BY AUTHORITY**

---

**No. 2] NEW DELHI, FRIDAY, FEBRUARY 17, 1961/MAGHA 28, 1882**

---

## **LOK SABHA**

The following Report of the Joint Committee on the Bill to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for payment of maternity benefit to them was presented to Lok Sabha on the 17th February, 1961:—

### **Composition of the Joint Committee**

*Lok Sabha*

**Dr. Sushila Nayar—Chairman.**

### **MEMBERS**

2. Shri Amjad Ali
3. Shri Kanhaiya Lal Balmiki
4. Shri Panna Lal Barupal
5. Shri Bhakt Darshan
6. Shrimati Renu Chakravartty
7. Shri Chandramani Lal Choudhry
8. Shri Bhaurao Krishnarac Gaikwad
9. Shri Aurobindo Ghosal
10. Shri Ram Krishan Gupta
11. Pandit Jwala Prasad Jyotishi

12. Shrimati Sangam Laxmi Bai
13. Shrimati Mafida Ahmed
14. Shri Inder J. Malhotra
15. Shri Jiyalal Mandal
16. Shri K. P. Kuttikrishnan Nair
17. Shrimati Ila Palchoudhuri
18. Shri Ram Garib
19. Shri K. S. Ramaswamy
20. Shri Jaganatha Rao
21. Shri Rameshwar Sahu
22. Shri Shibban Lal Saksena
23. Shrimati Jayaben Vajubhai Shah
24. Shri Shraddhakar Supakar
25. Shri K. T. K. Tangamani
26. Shri Umrao Singh
27. Shri Ramsingh Bhai Varma
28. Shri Balkrishna Wasnik
29. Shri K. G. Wodeyar
30. Shri Gulzarilal Nanda

*Rajya Sabha*

31. Shri Akhtar Husain
32. Shrimati Anis Kidwai
33. Shri Arjun Arora
34. Shrimati K. Bharathi
35. Shri Rohit M. Dave
36. Shri Khandubhai K. Desai
37. Shrimati Jahanara Jaipal Singh
38. Shri Akbar Ali Khan
39. Shri Kishori Ram
40. Shrimati Krishna Kumari
41. Shri Bhagirathi Mahapatra
42. Dr. A. Subba Rao
43. Sardar Budh Singh
44. Kumari Shanta Vasisht
45. Shri Abid Ali.

---

DRAFTSMAN

Shri V. N. Bhatia, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

### REPORT OF THE JOINT COMMITTEE

1. The Chairman of the Joint Committee to which the \*Bill to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for payment of maternity benefit to them was referred having been authorised to submit the report on their behalf, present this their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 6th December, 1960. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Lok Sabha by Shri Abid Ali, Deputy Minister of Labour on the 14th December, 1960, and was discussed and adopted on the same day.

3. The Rajya Sabha discussed the motion on the 19th December, 1960 and concurred in the said motion on the same day.

4. The message from the Rajya Sabha was read to the Lok Sabha on the 22nd December, 1960.

5. The Committee held four sittings in all.

6. The first sitting of the Committee was held on the 22nd December, 1960, to draw up a programme of work. The Committee at this sitting also decided to hear evidence from associations, public bodies and individuals desirous of presenting their suggestions or views before the Committee and to issue a press communique inviting memoranda for the purpose. The Chairman was authorised to decide, after examining the memoranda submitted in this respect, as to which of the associations, public bodies etc. should be called upon to give oral evidence before the Committee.

7. 11 memoranda/representations on the Bill were received by the Committee from different associations.

8. No request for giving evidence was received by the Committee. Evidence was, therefore, not taken by the Committee.

9. The Committee considered the Bill clause by clause at their sittings held on the 27th and 28th January, 1961.

---

\*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 6th December, 1960.

10. The Report of the Committee was to be presented by the first day of the Thirteenth Session i.e. the 14th February, 1961. The Committee, however, were granted on the 14th February, 1961, extension of time for presentation of their Report upto the 17th February, 1961.

11. The Committee considered and adopted this Report on the 14th February, 1961.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Long title.*—Since the Bill makes provisions regarding maternity and other benefits, the Committee are of the opinion that necessary change may be made in the long title.

The long title has been amended accordingly.

14. *Enacting Formula and Clause 1.*—The changes made in the enacting formula and Clause 1 are verbal.

15. *Clause 2.*—The Committee are of the view that the scope of the proviso to this clause should be enlarged.

The clause has been amended accordingly.

16. *Clause 3.*—The Committee feel that 'incentive bonus' should also be included in the definition of 'wages' given in this clause.

The Committee further feel that the definition of 'maternity benefit' should also be revised to bring it in consonance with the amendment made in sub-clause (3) of clause 5.

The clause has been amended accordingly.

17. *Clause 5.*—The Committee are of the opinion that the provisions relating to the payment of maternity benefit should be more liberal.

The Committee have accordingly increased the minimum maternity benefit payable to a woman from 0.75 nP to Re. 1/-.

They also feel that in calculating the average daily wage for giving maternity benefit only the wages drawn by the woman during the period of 3 months immediately preceding the date of delivery should be taken into account instead of a period of 12 months.

The Committee are of the view that the qualifying condition of employment for a period of 240 days during the 12 months immediately preceding the expected date of delivery to entitle a worker to maternity benefit is too rigorous and the period should be reduced to 160 actual working days inclusive of the period of "lay-off", if any.

The Committee further consider that where a woman dies during delivery of a child or during a period of six weeks immediately following the date of delivery, leaving behind the child, the maternity benefit should be paid to the person nominated in the notice given under clause 6 or in the absence of such a nominee to her legal heir for the entire period of six weeks or if the child dies during the said period, the benefit should be paid upto and including the day of the death of the child.

The clause has been amended accordingly.

18. *Clause 6.*—The changes in this clause are consequential to the amendments made in the definition of 'maternity benefit'.

19. *Clause 7.*—The Committee feel that the words 'during the period for which she is entitled to maternity benefit' are rather restrictive and the payment under this clause should be made even if a woman dies after the said period. Necessary change has been made in the clause accordingly.

The other amendment made in the clause is consequential to the amendment made in sub-clause (3) of clause 5.

20. *Clause 12.*—The Committee are of the view that the clause should be made more comprehensive so as to be applicable to cases of discharge also. They further think that acts which may constitute gross misconduct under sub-clause (2) should be prescribed by rules.

The Committee feel that the clause should further be amended to enable a woman who is deprived of maternity benefit or medical bonus or both to prefer an appeal before a prescribed authority whose decision shall be final.

The clause has been amended accordingly, and also certain other consequential changes have been made in the clause.

21. *Clauses 13, 17, 18 and 21.*—The amendments made in these clauses are of consequential nature.

22. *Clause 26.*—The Committee are of the opinion that an establishment should not be entitled to exemption from the provisions

of this Act because the working of the establishment is of a seasonal character. The Committee also feel that the appropriate Government should not be given a blanket power of granting exemption.

Parts (i) and (iii) of the clause have been omitted accordingly.

23. *Clause 28.*—The changes made in this clause are consequential to amendments made in clause 12.

24. *Clause 30.*—The Committee feel that the Bombay Maternity Benefit Act, 1929, as in force in the Union territory of Delhi should also stand repealed in relation to factories.

The clause has been amended accordingly.

25. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;  
*The 16th February, 1961.*

SUSHILA NAYAR,  
*Chairman,  
Joint Committee.*

## MINUTES OF DISSENT

### I

The purpose of this legislation was to reduce as far as possible the existing disparities in the various legislations in this country. The Bill as it has emerged from the Joint Committee has met this object only partially. There are at present three central legislations namely Mines Maternity Benefit Act 1941, Employees State Insurance Act 1948 and Plantation Labour Act 1951 conferring maternity benefits. Besides there are State Legislations by the various states like Assam, Bihar, Bombay (old), Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal providing maternity protection. There is a special legislation for the Tea estates workers of West Bengal. I.L.O. convention (103) concerning Maternity Protection (Revised 1952) and I.L.O. Recommendation No. 95 concerning maternity protection are there as a guide although Government of India have not ratified the said convention. The present legislation is hesitant and leaves many things to be set right later.

2. In the first place, according to Clause 1 (3) (b) it is left to the State Governments to notify the date on which the Act will come into force. This will not help uniformity in a legislation of this type. In the Act fixing the hours of work for Motor Transport workers, there is a provision authorising the Central Government to notify the date. We feel that the same procedure should be followed in this case also.

3. The I.L.O. convention (103) applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home. The present Bill as it emerges from the committee applies accordingly to clause 2 (1) in the first instance to Factory, Mine or Plantation. It is left to the State Government with the approval of the Government of India after giving not less than two months notice to extend to other establishments. Our view is that workers in commercial establishments, hospitals and schools ought to have been included in the first instance.

4. Clause 3 (j) defines "Miscarriage" as expulsion of the contents of a pregnant uterus at any period prior to or during the 26th week of pregnancy but does not include any miscarriage the causing of which is punishable under Indian Penal Code 1860. We think that



the definition should not be couched in a language intending to deprive the worker of the benefits. No case of conviction as such is implied. Therefore, it is proper that the words "but does not include any miscarriage the causing of which is punishable under IPC 1860" should be deleted.

5. In clause 5, the qualifying period is now reduced from 240 days to 160 days. To this extent it is a welcome thing. But it may be pointed out that in the Central Plantation Labour Act, legislations concerning Assam, Kerala and West Bengal Tea Estates the qualifying period is only 150 days. Large number of workers enjoying this benefit on the basis of 150 days qualifying period or 9 months on the roll preceding date of notice, should continue to enjoy the same privilege.

While welcoming the reduction to 160 days, we feel that in the case of factories of a seasonal nature the period ought to have been reduced to 100 days with proportional benefits. It is regrettable that this Bill does not protect permanent workers who do not come within the qualifying period in view of the intermittent nature of the work. In Japan any worker who has been in service for six months is entitled to the maternity benefit. In Yugoslavia, Netherlands and China there is no qualifying period at all.

The benefit of 12 weeks is more in accordance with I.L.O. convention although in U.K. benefit is for 18 weeks and rate of compensation too is much higher.

Although we would like the minimum daily rate of benefit should be higher, we are glad at least that the Joint Committee increased it from 75 nP. to 1 Rupee or the average daily wage whichever is higher.

6. While qualifying period has been fixed to enable a woman worker to get benefits under the Act, it is inequitable to provide as in the case of clause 12 to deprive her of the benefits under certain circumstances. The circumstances mentioned here is gross misconduct and dismissal. The latter is an issue under industrial relations and the law can take care of it. This should not interfere in any way with the benefit which is now granted to the woman for a purpose completely unconnected with this clause 12.

7. Lastly, we oppose powers being given to appropriate governments for exempting certain establishments from the operation of this Act. Such exemption could be given only where the existing benefits are favourable. We are glad that in a limited way this

1954 G of I—2.

principle has been accepted by Clause 27. The Government should revoke it at the instance of the workers. Defaulters should be prosecuted promptly and arrears should be recovered without the least delay. We are constrained to point out these matters and append our minute of dissent to the Report of the Joint Committee on Maternity Benefit Bill, 1960.

NEW DELHI;  
*The 14th February, 1961.*

K. T. K. TANGAMANI  
A. SUBBA RAO  
RENU CHAKRAVARTTY  
AUROBINDO GHOSAL.

---

## II

Almost every State has enacted its own Maternity Benefit Act. The purpose of this Bill therefore, can only be to extend the provisions of this Bill to cover even those women workers who have not so far enjoyed maternity benefit under any of the existing Maternity Benefit Acts in various States and to bring about uniformity in regard to provisions relating to payment of maternity benefit to women workers all over the country by making the most advanced provisions in regard to payment of maternity benefit already prevailing in some States applicable to all States in the country.

2. My purpose in appending this minute of dissent is to focus attention on the fact that none of these two purposes is served by the Bill in its present form. Clause (1) of the Bill does say that "it extends to the whole of India except the State of Jammu and Kashmir". But clause (2) of the Bill narrows down the scope of the Bill very considerably, by saying that "It applies, in the first instance, to every establishment being a factory, mine or plantation."

3. Thus the provisions of this Bill will not be applicable to the thousands of women telephone operators in the telephone exchanges all over the country, to the thousands of women nurses in the various hospitals and nursing homes all over the country, to the thousands of women teachers in the various educational institutions all over the country, to the thousands of women scavenging staff employed by local bodies all over the country and to the thousands of women workers in seasonal factories of all kinds all over the country.

4. I, therefore, think clause (2) of the Bill should be substituted by a simpler and more comprehensive clause as follows:—

“2. It applies to every establishment in the country employing more than ten women workers, unless it is specially exempted by the appropriate Government.”

5. The definition of wages in clause 3(n) of the Bill is retrograde. Wages should include all the remuneration to which the woman worker would have been entitled in the normal course if she had not become pregnant.

6. In clause (5) of the Bill, the qualifying period is fixed at 160 days. I think every pregnant woman should have the right to maternity benefit irrespective of the period of her employment in any establishment. Besides, most States have fixed the qualifying period at 150 days. The provision of 160 days qualifying period is therefore retrograde.

Besides, the benefit will not be available to women workers in seasonal factories which work less than five months in the year. Even seasonal-permanent women workers of these factories employed in them even for 10 years and 20 years, will not be entitled to this benefit, because the factory will simply not have worked for 150 days or 160 days if they become pregnant on any day during the season. Therefore the woman workers in seasonal factories and in any case, the permanent seasonal workers in seasonal factories like the sugar factories, should be exempted from this provision about “qualifying period.”

7. In clause (11) of the Bill only 2 nursing breaks are allowed to the mother for feeding the baby. These breaks should be allowed once every two hours as the child must be fed at intervals of not more than 2 hours. In an eight hour working day, at least 3 such breaks should be provided for.

8. In clause (12) of the Bill a woman worker is deprived of maternity benefit in case of dismissal for gross misconduct. Maternity benefit is principally for the benefit of the child and therefore the woman worker should not be deprived of it under any circumstances. Besides after the qualifying period a woman worker has earned maternity benefit. Any subsequent misconduct should not therefore, deprive her of the right she has already earned.

NEW DELHI;

SHIBBAN LAL SAKSENA.

*The 15th February, 1961.*

## THE MATERNITY BENEFIT BILL, 1960

[AS REPORTED BY THE JOINT COMMITTEE]

## ARRANGEMENT OF CLAUSES

## CLAUSES

1. Short title, extent and commencement.
2. Application of Act.
3. Definitions.
4. Employment of, or work by, women prohibited during certain periods.
5. Right to payment of maternity benefit.
6. Notice of claim for maternity benefit and payment thereof.
7. Payment of maternity benefit in case of death of a woman.
8. Payment of medical bonus.
9. Leave for miscarriage.
10. Leave for illness arising out of pregnancy, delivery, premature birth of child, or miscarriage.
11. Nursing breaks.
12. Dismissal during absence or pregnancy.
13. No deduction of wages in certain cases.
14. Appointment of Inspectors.
15. Powers and duties of Inspectors.
16. Inspectors to be public servants.
17. Power of Inspector to direct payments to be made.
18. Forfeiture of maternity benefit.
19. Abstract of Act and rules thereunder to be exhibited.
20. Registers, etc.
21. Penalty for contravention of Act by employer.
22. Penalty for obstructing Inspector.
23. Cognizance of offences.

---

**CLAUSES**

- 24. Protection of action taken in good faith.
  - 25. Power of Central Government to give directions.
  - 26. Power to exempt establishments.
  - 27. Effect of laws and agreements inconsistent with this Act.
  - 28. Power to make rules.
  - 29. Amendment of Act 69 of 1951.
  - 30. Repeal.
-

Bill No. 84B of 1960

THE MATERNITY BENEFIT BILL, 1960

[AS REPORTED BY THE JOINT COMMITTEE]

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A

BILL

to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for \* \* \* maternity benefit and certain other benefits.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit Act, 1961.

Short title  
extent and  
commence-  
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as may be notified in this behalf in the Official Gazette,—

(a) in relation to mines in the territories to which this Act extends, by the Central Government; and

10 (b) in relation to other establishments in a State, by the State Government.

2. (1) It applies, in the first instance, to every establishment being a factory, mine or plantation including any such establishment belonging to Government: Application  
of Act.

15 Provided that the State Government may, with the approval of the Central Government, after giving not less than two months'

notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, \* \* agricultural or otherwise.

(2) Nothing contained in this Act shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948, apply for the time being.

34 of 1948

**Definitions.**

3. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means, in relation to an establishment being a mine, the Central Government and in relation to any other establishment, the State Government;

(b) "child" includes a still-born child;

(c) "delivery" means the birth of a child;

(d) "employer" means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

(e) "establishment" means a factory, mine, or plantation, or an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable;

(f) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

35 of 1948

(g) "Inspector" means an Inspector appointed under section 14;

(h) "maternity benefit" means the payment referred to in sub-section (1) of section 5;



35 of 1952. (i) "mine" means a mine as defined in clause (j) of section 2 of the Mines Act, 1952;

43 of 1860. (j) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;

69 of 1951. (k) "plantation" means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;

10 (l) "prescribed" means prescribed by rules made under this Act;

(m) "State Government", in relation to a Union territory, means the Administrator thereof;

15 (n) "wages" means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

20 (2) incentive bonus; and

(3) the money value of the concessional supply of food-grains and other articles,

but does not include—

(i) any bonus other than incentive bonus;

25 (ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and

30 (iv) any gratuity payable on the termination of service;

(o) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

4. (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

Employment of, or work by, women prohibited during certain period.

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section (4) any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 6.

Right to pay-  
ment of mat-  
ernity bene-  
fit.

5. (1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day.

*Explanation.*—For the purpose of this sub-section, the average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, or one rupee a day, which ever is higher.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery:

Provided that the qualifying period of one hundred and sixty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.

*Explanation.*—For the purpose of calculating under this sub-section the days on which a woman has actually worked in the establishment, the days for which she has been laid off during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.

(3) The maximum period for which any woman shall be entitled to \* \* \* maternity benefit shall be twelve weeks, that is to say, six weeks up to and including the day of her delivery and six weeks immediately following that day:

5 Provided that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

10 Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period of six weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the maternity benefit for the entire period of six weeks immediately following the day of her delivery but if the child also dies during the said period, then, for the days up to and including the day of the death of the  
15 child.

6. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to her employer, stating that her maternity benefit and any other amount to which she may  
20 be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

Notice of claim for maternity benefit and payment thereof.

25 (2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

30 (4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment until the expiry of six weeks after the day of her delivery.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Act if she is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order. 5

Payment of maternity benefit in case of death of a woman.

7. If a woman entitled to maternity benefit or any other amount under this Act, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative. 10

Payment of medical bonus.

8. Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of twenty-five rupees, if no pre-natal, confinement and post-natal care is provided for by the employer free of charge. 15

Leave for miscarriage.

9. In case of miscarriage, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage. 20

Leave for illness arising out of pregnancy, delivery, premature birth of child, or miscarriage.

10. A woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of such proof as may be prescribed, be entitled, in addition to the period of absence allowed to her under section 6, or, as the case may be, under section 9, to leave with wages at the rate of maternity benefit for a maximum period of one month. 25

Nursing breaks.

11. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months. 30

Dismissal during absence or pregnancy.

12. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service. 35

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

(b) Any woman deprived of maternity benefit or medical bonus or both, may, within sixty days from the date on which the order of such deprivation is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, shall be final.

(c) Nothing contained in this sub-section shall affect the provisions contained in sub-section (1).

13. No deduction from the normal and usual daily wages of a woman entitled to \* \* \* maternity benefit under the provisions of this Act shall be made by reason only of—

No deduction of wages in certain cases.

(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4; or

(b) breaks for nursing the child allowed to her under the provisions of section 11.

14. The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

Appointment of Inspectors.

15. An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely:—

Powers and duties of Inspectors.

(a) enter at all reasonable times with such assistants, if any, being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place where women are employed or work is given to them in an establishment, for the purposes of examining any registers, records and notices required to be kept or exhibited by or under this Act and require their production for inspection;

(b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;

(c) require the employer to give information regarding the names and addresses of women employed, payments made to them, and applications or notices received from them under this Act; and

(d) take copies of any registers and records or notices or any portions thereof.

Inspectors to be public servants.

16. Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Power of Inspector to direct payments to be made.

17. (1) Any woman claiming that maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld may make a complaint to the Inspector. 15

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders. 20

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such person, appeal to the prescribed authority. 25

(4) The decision of the prescribed authority where an appeal has been preferred to it under sub-section (3) or of the Inspector where no such appeal has been preferred, shall be final.

(5) Any amount payable under this section shall be recoverable as an arrear of land revenue. 30

Forfeiture of maternity benefit.

18. If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of section 6 for any period during such authorised absence, she shall forfeit her claim to the \* \* \* maternity benefit for such period. 35

Abstract of Act and rules thereunder to be exhibited.

19. An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

20. Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

Registers  
etc.

21. If any employer contravenes the provisions of this Act or the rules made thereunder, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.

Penalty for  
contraven-  
tion of Act  
by employer.

22. Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for  
obstructing  
Inspector.

23. (1) No prosecution for an offence punishable under this Act or any rule made thereunder shall be instituted after the expiry of one year from the date on which the offence is alleged to have been committed and no such prosecution shall be instituted except by, or with the previous sanction of, the Inspector:

Cognizance  
of offences.

Provided that in computing the period of one year aforesaid, the time, if any, taken for the purpose of obtaining such previous sanction shall be excluded.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any such offence.

24. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

Protection of  
action taken  
in good faith.

25. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act and the State Government shall comply with such directions.

Power of  
Central Gov-  
ernment to  
give direc-  
tions.

26. If the appropriate Government is satisfied that having regard to \* \* \* an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, \* \* \* it is necessary so to do, it may, by notification in the Official Gazette, exempt, subject to such conditions and

Power to  
exempt esta-  
blishments.

restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

Effect of laws  
and agree-  
ments in-  
consistent  
with this  
Act.

27. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act: 5

Provided that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favourable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act. 10

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter which are more favourable to her than those to which she would be entitled under this Act. 15

Power to  
make rules.

28 (1) The appropriate Government may, subject to the condition of previous publication and by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 20

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation and maintenance of registers, records and muster-rolls; 25

(b) the exercise of powers (including the inspection of establishments) and the performance of duties by Inspectors for the purposes of this Act;

(c) the method of payment of maternity benefit and other benefits under this Act in so far as provision has not been made therefor in this Act; 30

(d) the form of notices under section 6;

(e) the nature of proof required under the provisions of this Act; 35

(f) the duration of nursing breaks referred to in section 11;

(g) acts which may constitute gross misconduct for purposes of section 12;

(h) the authority to which an appeal under clause (b) of sub-section (2) of section 12 shall lie; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof; 40



(i) the authority to which an appeal shall lie against the decision of the Inspector under \* \* \* section 17; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

5 (j) the form and manner in which complaints may be made to inspectors under sub-section (1) of section 17 and the procedure to be followed by them when making inquiries or causing inquiries to be made under sub-section (2) of that section;

10 (k) any other matter which is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive  
15 sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however,  
20 that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. In section 32 of the Plantations Labour Act, 1951,—

Amendment  
of Act 69 of  
1951.

(a) in sub-section (1), the letter and brackets “(a)” before the words “in the case of sickness”, the word “and” after the  
25 words “sickness allowance” and clause (b) shall be omitted;

(b) in sub-section (2), the words “or maternity” shall be omitted.

30. On the application of this Act—

Repeal.

19 of 1941.

(i) to mines, the Mines Maternity Benefit Act, 1941; and

30 (ii) to factories situate in the Union territory of Delhi, the Bombay Maternity Benefit Act, 1929, as in force in that territory, shall stand repealed.

Bom. Act  
VII of 1929.

M. N. KAUL,  
Secretary.

